

		MA 401-1
Department of Public Health and Human Services	Section:	RESOURCES
	Subject:	Ownership/Accessibility/Equity Value
MEDICAL ASSISTANCE		

Supersedes: MA 401-1 (01/01/08)

References: ARM 37.82.101, .903; 20 CFR 416 Subpart L; 42 CFR 435.601

GENERAL RULE--A resource is real or personal property which has economic value. Resources can include, but are not limited to cash, savings, investments, houses, land, vehicles, etc. The filing unit's resources are evaluated for ownership, accessibility, and equity value. All resources are countable unless specifically excluded by regulation.



No exclusions listed in this section will be applied to property a filing or assistance unit does not own, nor to the use of such property except by owners who are members of the filing or assistance unit. This includes *but is not limited to* property which a filing or assistance unit does not own but is owned by or held in:

1. a trust of any kind (whether or not any member of the filing/assistance unit is a trust beneficiary or a trustor),
2. a corporation of any kind (whether or not any member of the filing/assistance unit is a corporate shareholder),
3. a partnership of any kind (whether or not any member of the filing/assistance unit is a partner),
4. a limited liability company of any kind (whether or not any member of the filing/assistance unit is a member of the company), or
5. any other legal entity, instrument, device or arrangement of any kind by which a filing or assistance unit does not own the property.

**LIQUID AND
NON-LIQUID
RESOURCES**

Liquid resources are cash and other resources that can be readily converted to cash. Examples of resources that are ordinarily liquid include (but are not limited to) stocks, bonds, mutual fund shares, promissory notes, mortgages, life insurance policies, financial institution accounts (savings, checking, time deposits/CDs) and similar items.

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Non-liquid resources are resources that cannot reasonably be immediately converted into cash.

A resource which has been determined to be non-liquid for any reason is not considered inaccessible or excluded simply because the value of the asset cannot be accessed in the benefit month.

RESOURCE ACCESSIBILITY & AVAILABILITY

Resources are considered accessible either when actually available to the individual or when the individual has a legal or equitable interest in the property or asset and has the legal or equitable ability to access funds or to convert non-cash property into cash, regardless of whether the individual has the practical ability to access the funds or to convert non-cash property into cash.

Consider jointly owned resources accessible according to the information above unless the individual rebuts ownership or accessibility and can verify to the satisfaction of the following policies that the joint ownership does block accessibility of the resource.

► RESOURCE OWNERSHIP AND EXCLUSIONS

Property held in trust or owned by a corporation is not the directly-owned property of an individual with an interest in the corporation or trust. In determining eligibility for Medicaid, no exclusions will be applied to property a filing or assistance unit member does not own, nor will any exclusion apply as to use of such property, except by owners who are members of the filing or assistance unit. No resource exclusions can be applied to trust or corporate property, regardless of whether the individual legal or equitable owner of the interest in the corporation or trust is a trust beneficiary or corporate shareholder. See MA 402-3 for information regarding trust funds.

NOTE: When an individual owns an interest in a corporation, he/she owns corporate STOCK. While he/she will not own the property held by the corporation, the stock he/she owns in the corporation will have a value. The stock may be valued based on the assets and liabilities of the corporation.

OWNERSHIP

Ownership of a resource is determined by the:

1. Name(s) on the account, title, deed, contract, etc.,

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2. Source of the funds in the account or used to purchase the resource,
3. Purpose for which the account/investment was opened or made, and
4. Activity and use of the account/investment.

If the title, deed, contract, account, etc., has only one name listed, the resource belongs to that individual. If more than one name is listed, it is considered a jointly owned resource. Once determined as jointly owned, the resource's accessibility must be evaluated.

JOINTLY OWNED RESOURCES

Resources owned jointly with someone outside the household must be evaluated to determine accessibility to the household.

NOTE: Always record resources owned jointly with someone outside the home on the system as a resource of the applicant/recipient. This assures the resources are counted correctly.

Consider 100% of the resource as available to the household **unless** the:

1. Household can demonstrate it only has access to a portion of the resource; (count the value of the proportional interest owned by the filing unit member), or;
 - a. the accessible portion of jointly owned real estate or other titled or deeded property is the percent owned by the applicant/recipient;
 - b. the accessible portion of a bank account or other liquid resource is considered to be 100% unless otherwise restricted.
2. Resource cannot be practically subdivided and the household's access to the resource is dependent on the agreement of a joint owner who refuses to comply. This provision does not apply to real property.

REBUTTAL OF OWNERSHIP OR ACCESSIBILITY

Rebuttal of resource ownership and/or accessibility must be submitted in writing, and must be signed by all co-owners. Rebuttal may be made using EA-96, "Statement of Account

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Ownership” form, but the form is a tool, not a requirement. The rebuttal must explain and include verification of the following:

1. The reason co-ownership was established;
2. The names of individuals whose funds were used to establish the account or purchase the asset, and the amounts each invested;
3. The names of individuals who have made withdrawals or have used the resource; and
4. How the funds were spent or what the resource has been used for.

If 100% ownership/accessibility is successfully rebutted, action must immediately be taken by the applicant/recipient to separate commingled funds, remove the applicant/recipient's name from the account/resource, or restrict his/her access to the account; whichever may be applicable to the situation.

For jointly owned vehicles, see MA 403-1.

DISPUTED ACCESSIBILITY

If the resource is jointly-owned or the individual rebuts ownership and/or accessibility, an investigation of accessibility must occur. Verification of ownership and/or accessibility is required with the rebuttal statement. The verification shall be bank statements, agreements, deeds, titles, or other collateral statements. The applicant/recipient's statement alone is not sufficient verification. Document the circumstances and the action taken in system case notes.

NOTE: Rebuttal must be made by providing a written statement signed by all co-owners. (See “Rebuttal of Ownership or Accessibility”), in addition to the information listed below.

INACCESSIBLE RESOURCES

A resource is not considered inaccessible simply because it is non-liquid. The practical inability to access the resource also does not make it inaccessible.

Example: An individual has a bank account and the bank refuses to acknowledge a power of attorney document and release funds. This is a

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practical inability to access the funds, but is not a legal inability to access the funds.

A resource may be considered inaccessible if:

1. An individual cannot legally access the value of the resource for a reason beyond his/her control and, unless undue hardship exists, all legal avenues have been exhausted in order to access the value of the resource. Undue hardship exists if the cost of accessing the value of the property would exceed the value of the property, or
2. A joint owner of the resource refuses to make the value of the resource available to the individual by refusing possession of the resource, such as a savings bond, or
3. The resource is real property and is the home of a joint owner **AND** sale would result in the joint owner being homeless, (for example, the joint owner has limited income and few additional assets with which to secure replacement housing and little equity in the present home, or the home has been extensively modified for the use of a handicapped joint owner); or
4. The resource has been listed for sale continuously for six months or more (with no more than a one-week lapse) at no more than Fair Market Value with no reasonable offers received. A reasonable offer is considered to be two-thirds of the property's estimated current market value. If an offer at or above two-thirds of the current market value is received, this will establish a new value of the property for Medicaid purposes.

A property has been continuously listed for sale if:

- a) The property has been listed with a local broker; OR
- b) ALL of the following criteria have been met:
 - i. The property has been continuously advertised in at least one of the appropriate local media, AND
 - ii. A 'For Sale' sign has been posted on the property where it is clearly visible to the public, AND

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- iii. Open houses or other showings of the property to interested parties have been conducted on a continuous basis, AND
- iv. Other appropriate attempts of sale have been made on a continuous basis.

NOTE: Conditional assistance must first be applied to the property for the time period appropriate to the type of resource before this inaccessibility exclusion can be applied.

EXAMPLES - Accessible/Inaccessible Resources:

1. Beth has access to her mother's savings account; both names appear on the account title (jointly owned). Her mother does not live with her. Beth claims she has never deposited any of her own money in the account nor has she used the monies for her own benefit. Collateral evidence (bank statements, etc.) substantiates her claim. Beth and her mother must also complete form EA-96, "Statement of Account Ownership".

Consider the account inaccessible. Document determination in case notes. Set an alert to review the account's activity in three months.

Beth's name must be removed from the account or her access restricted as soon as possible. If this were not done within a reasonable amount of time (reasonable depends on the nature of the resource), Beth's future eligibility would be denied.

2. Mary owns a house with her estranged husband (both names on the deed). She is not living in the house; he is.

The house is a countable resource and her proportional share of its value is accessible to Mary unless:

- a) it can be shown that her estranged husband would be rendered homeless by the sale of the property, or
- b) if legal proceedings (such as divorce petition) specifically bar sale or other disposal of assets. Set an alert to ask for final decree. Reevaluate accessibility based on the divorce/ separation decree.

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If either a. or b. above applies, consider the house as an inaccessible resource to Mary.

3. Sandy owns land (real property) with her brother. She does not live on the land.

The value of the land is accessible. Sandy's share of the land is considered accessible unless she can demonstrate that it is unsaleable by putting it up for sale at fair market value and receiving no offers. However, if the property is her brother's home, and sale of the property would cause him to be homeless, the property could be excluded.

DETERMINING FAIR MARKET VALUE

Fair market value (FMV) of a resource is determined in various ways, depending on the type of resource. For example, bank accounts and cash are based on the amount of money on deposit. CDs and other time deposits are based on the amount of money that can be withdrawn after penalties for early withdrawal (but not after taxes are withheld). Car values are based on NADA (Blue Book) values or statements from knowledgeable sources such as area car dealers.

Real estate is valued based on area realtor/real estate broker statements. Real estate values cannot be based on tax appraisals, which are not necessarily current or based on true sales potential.

Other types of resources are valued based on statements from knowledgeable sources or other means that are reasonable and appropriate to the type of resource being valued.

EQUITY VALUE

To determine equity value, subtract the amount owed from the FMV. Only the equity value of an accessible resource is counted toward the resource limit, other than for vehicles (see MA 403-1). Most system screens are designed to calculate equity value based on information entered regarding FMV and debts against the property.

NOTE: Only debts (amounts owed) that are secured by liens or other legal encumbrances against the resource can be subtracted from the FMV when determining equity.

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**TREATMENT
OF EXCLUDED
RESOURCES**

Excluded funds kept in a separate account retain the resource exclusion as long as they remain in a separate account.

NOTE: Money withdrawn from an excluded burial fund would be considered income in the month following the month of discovery, if withdrawn for reasons other than death. (See Burial Exclusions in MA 402-1.)

**COMMINGLING
OF EXCLUDED &
NON-EXCLUDED
FUNDS**

If excluded and non-excluded resources are commingled (mixed) in the same account, the specific sources of the funds must be identified in order to determine if the excluded funds continue to be excluded once commingled. If excluded funds may continue to be excluded, there must be clear records (either of the financial institution or owner) identifying and tracing the different sources. If excluded funds continue to be excluded, consider any withdrawals from the account to be from the non-excluded funds first, and from the excluded funds only after the non-excluded funds have been exhausted.

**FUNDS
PRORATED
AS INCOME**

Funds which have been prorated as income retain their resource exclusion for the period of time over which they have been prorated as income (even if the funds have been commingled). A system alert should be set.

Example: Farmer Brown sells his crops in August, netting \$12,000. The proceeds are intended to support his family for a year. Prorate the \$12,000 as income, \$1,000 per month. The \$12,000 (even if commingled) is excluded as a resource for the one-year period.

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